



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This was a hearing with respect to the tenant's application for a monetary order for compensation and for the return of his security deposit and pet deposit. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend, although she was served with the application for dispute resolution and Notice of Hearing by registered mail sent on March 18, 2014

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a suite in the landlord's house in Port Coquitlam. The tenancy began in September, 2013. The monthly rent was \$850.00 plus one half the utilities. The tenant paid a security deposit of \$425.00 and a pet deposit of \$250.00 at the start of the tenancy.

The tenant said that there were disputes during his tenancy about his use of the garden area of the rental property and complaints that his dog brought fleas to the property. The landlord accused him of damaging the property by creating a garden plot in the yard. The tenant said that he received permission to have a garden when the tenancy began and all the complaints by the landlord were unfounded.

The tenant testified that he was away on a trip and came back on January 27th at 2:00 A.M. but the landlord refused to let him enter the rental unit. The tenant succeeded in getting access to the rental unit by 9:00 A.M. after the police were involved in the dispute. The landlord demanded payment of rent on February 1st. The tenant said he was not paying and would move out on February 10th. On February 2nd the landlord would not let him enter the rental unit, but when the police were contacted the tenant was

allowed back into the unit. The tenant works evenings. On the evening of February 5th he went to work. When he returned from work he found that the landlord had removed all of his belongings and put them in a shed on the property. The landlord gave him a letter that stated he had been evicted and the tenancy was terminated. The tenant contacted the police. The police officer would not allow him into the unit and told him to pursue the matter through the Residential Tenancy Branch.

The landlord attempted to deny the tenant access to his belongings although he had people with a truck and trailer come to the rental property to help him move. It was only after the police were again contacted that the landlord finally allowed him to remove his belongings. Several items, including a laptop computer and a video game controller were damaged by the landlord when she put his things into the shed.. The tenant had to get his family to help him move.

On March 16, 2014 the tenant sent the landlord a letter with his forwarding address requesting the return of his security deposit of \$425 and his pet deposit of \$250.00. The landlord did not return any amount and did not respond to his letter. The landlord has not filed an application to claim the deposits.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with his forwarding address in writing, and served the landlord with documents notifying the landlord of this application as required by the *Act*. The tenant's security and pet deposits were not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act*, the landlord has not applied to claim the deposits, the tenant did not give his consent in writing for the landlord to retain the deposits and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award him the sum of \$1,350.00, being double the amount of the security and pet deposits. With respect to the tenants' claim for compensation for his wrongful eviction, the *Residential Tenancy Act* makes it clear

that a tenancy may only end in accordance with the *Act* and a landlord who wants to end a tenancy for cause, or for non-payment of rent must first serve a Notice to End Tenancy in the proper form and then apply for and obtain an order for possession. The landlord did not do any of these things; instead she engaged in an unlawful eviction without following any of the required steps. I find that the tenant has suffered damage and loss as a result of the landlord's flagrant breach of the *Residential Tenancy Act* and he is entitled to monetary compensation as a result. His damages, although real and substantial are not readily quantifiable. I find that an appropriate amount of compensation for the tenant's unlawful eviction is the sum of \$1,250.00 and I award the tenant this amount as compensation for his damages and expenses suffered as a result of the landlord's unlawful eviction.

Conclusion

The tenant has been awarded \$1,350.00, being double the amount of his security and pet deposits and the further sum of \$1,250.00 as compensation for his wrongful eviction, for a total award of \$2,600.00. The tenant is entitled to recover the \$50.00 filing fee for his application, for a total award of \$2,650.00 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 04, 2014

Residential Tenancy Branch

